

In general, a school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility which is conducted on the school's premises, and which confines its selling to the students and employees of the school. See 86 Ill. Adm. Code 130.2005. (This is a GIL.)

April 26, 2006

Dear Xxxxx:

This letter is in response to your letter dated January 12, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We have researched issues of sales tax liability for Illinois public schools and are unsure if we are correct.

Issue #1

Sales of school supplies, books, and clothing to students and employees appear to be taxable. Is this correct?

Issue #2

Are the sales of food or soft drinks, to students and faculty, taxable?

Issue #3

Student groups, (commonly referred to as Activity Fund organizations) under the control of the board of education, purchase candy and other food items to sell at athletic events. Are we correct that such sales are considered taxable, if consumed on the premise?

#### Issue #4

Are the sales tax regulations the same for private schools as they are for public schools?

We appreciate your assistance. There are no tight time requirements in replying to this letter.

#### **DEPARTMENT'S RESPONSE:**

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes.

If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization. The Department's regulations governing exempt organizations apply equally to both public and private schools.

Section 130.2005 of the Department's rules set out some of the few limited circumstances when exempt organizations may make non-taxable retail sales. You may locate general information letters regarding exempt organizations, schools, and fundraising organizations by reviewing the Department's "Sunshine Letter" rulings which are located on the Department's Internet website under the heading of "Laws/Regs/Rulings." For example, see ST-04-0224-GIL and ST-03-0201-GIL.

In general, a school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility which is conducted on the school's premises, and which confines its selling to the students and employees of the school. In any instance in which the dining facility is opened up for the use of other persons, all sales that are made at such facility while that condition continues to prevail are taxable. See 86 Ill. Adm. Code 130.2005(b)(4)(A).

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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